

in accordance with the regulations of this part; and

(2) Require a county committee to withhold taking any action that is not in accordance with the regulations of this part.

(d) No provision of delegation in this part to a State or county committee will preclude the Administrator, FSA, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by the State or county committee.

(e) The Deputy Administrator, Farm Programs, FSA, may authorize State and county committees to waive or modify deadlines in cases where lateness or failure to meet such requirements do not adversely affect the operation of the DDAP-III and does not violate statutory limitations of the program.

(f) Data furnished by the applicants is used to determine eligibility for program benefits. Although participation in DDAP-III is voluntary, program benefits will not be provided unless the producer furnishes all requested data.

§ 786.102 Definitions.

The definitions in 7 CFR part 718 apply to this part except to the extent they are inconsistent with the provisions of this part. In addition, for the purpose of this part, the following definitions apply.

Administrator means the FSA Administrator, or a designee.

Application means DDAP-III application.

Application period means the time period established by the Deputy Administrator for producers to apply for program benefits.

Base annual production means the pounds of production determined by multiplying the average annual production per cow calculated from base period information times the average number of cows in the dairy herd during each applicable disaster year.

County committee means the FSA county committee.

County office means the FSA office responsible for administering FSA programs for farms located in a specific area in a State.

Dairy operation means any person or group of persons who, as a single unit, as determined by FSA, produces and markets milk commercially from cows and whose production facilities are located in the United States.

Department or USDA means the United States Department of Agriculture.

Deputy Administrator means the Deputy Administrator for Farm Programs (DAFP), FSA, or a designee.

Disaster claim period means the calendar year(s) applicable to the disaster declaration during the eligible period in which the production losses occurred.

Disaster county means a county included in the geographic area covered by a natural disaster declaration, and any county contiguous to a county that qualifies by a natural disaster declaration.

Farm Service Agency or FSA means the Farm Service Agency of the Department.

Hundredweight or cwt. means 100 pounds.

Milk handler or cooperative means the marketing agency to, or through, which the producer commercially markets whole milk.

Milk marketings means a marketing of milk for which there is a verifiable sale or delivery record of milk marketed for commercial use.

Natural disaster declaration means a natural disaster declaration issued by the Secretary of Agriculture after January 1, 2005, but before December 31, 2007, under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)), a major disaster or emergency designation by the President of the United States in that period under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or a determination of a Farm Service Agency Administrator's Physical Loss Notice for a county covered in an otherwise eligible Presidential declaration.

Payment pounds means the pounds of milk production from a dairy operation for which the dairy producer is eligible to be paid under this part.

Producer means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen of, or a legal resident alien in, the United States, and who directly or indirectly, as determined by the Secretary, have a share entitlement or ownership interest in a commercial dairy's milk production and who share in the risk of producing milk, and make contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity.

Reliable production evidence means records provided by the producer subject to a determination of acceptability by the county committee that are used to substantiate the amount of production reported when verifiable records are not available; the records may include copies of receipts, ledgers of income, income statements of deposit slips, register tapes, and records to verify production costs, contemporaneous measurements, and contemporaneous diaries.

Verifiable production records means evidence that is used to substantiate the amount of production marketed, including any dumped production, and that can be verified by FSA through an independent source.

§ 786.103 Time and method of application.

(a) Dairy producers may obtain an application, in person, by mail, by telephone, or by facsimile from any FSA county office. In addition, applicants may download a copy of the application at <http://www.sc.egov.usda.gov>.

(b) A request for benefits under this part must be submitted on a completed DDAP-III application. Applications and any other supporting documentation must be submitted to the FSA county office serving the county where the dairy operation is located, but, in any case, must be received by the FSA county office by the close of business on the date established by the Deputy Administrator. Applications not received by the close of business on such date will be disapproved as not having been timely filed and the dairy pro-

ducer will not be eligible for benefits under this program.

(c) All persons who share in the milk production of the dairy operation and risk of the dairy operation's total production must certify to the information on the application before the application will be considered complete.

(d) Each dairy producer requesting benefits under this part must certify to the accuracy and truthfulness of the information provided in their application and any supporting documentation. Any information entered on the application will be considered information from the applicant regardless of who entered the information on the application. All information provided is subject to verification by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided may result in a denial of eligibility. Furnishing the information is voluntary; however, without it program benefits will not be approved. Providing a false certification to the Government may be punishable by imprisonment, fines, and other penalties or sanctions.

§ 786.104 Eligibility.

(a) Producers in the United States will be eligible to receive dairy disaster benefits under this part only if they have suffered dairy production losses, previously uncompensated by disaster payments including any previous dairy disaster payment program, during the claim period applicable to a natural disaster declaration in a disaster county. To be eligible to receive payments under this part, producers in a dairy operation must:

(1) Have produced and commercially marketed milk in the United States and commercially marketed the milk produced anytime during the period of January 2, 2005 through December 30, 2007;

(2) Be a producer on a dairy farm operation physically located in an eligible county where dairy production losses were incurred as a result of a disaster for which an applicable natural disaster declaration was issued between January 1, 2005 and December 31, 2007, and limit their claims to losses that occurred in those counties, specific to conditions resulting from the